

House Bill 454  
February 15, 2011  
Presented by Dave Risley  
House Fish, Wildlife and Parks Committee

Mr. Chairman and members of the committee, my name is Dave Risley and I am the Administrator of the Fish and Wildlife Division of Montana Fish, Wildlife and Parks. I rise in reluctant opposition to House Bill 454.

FWP strongly supports the multiple use of our lands and, in fact, we allow for all of the multiple uses that HB454 specifies in section 1(8) in appropriate locations and when consistent with our management objective for fish, wildlife and outdoor recreation. We allow livestock grazing on 17 of our wildlife management areas where grazing can benefit wildlife. Timber harvest is currently happening, possibly as we speak, on the Mt. Haggain and Blackfoot-Clearwater Wildlife Management Areas (WMAs), and we have plans for future timber management on additional WMAs to meet wildlife objectives, as well as to comply with HB42 enacted last session. Farming or haying occurs on seven wildlife management areas where sharecroppers leave some crops standing for the benefit of wildlife. Opportunities for hiking, hunting and wildlife viewing opportunities are available seasonally or year-round on all WMAs and cycling and Off-Highway Vehicle (OHV) use is permitted on designated roads on most WMAs, fishing access sites and state parks. We allow snowmobiling on a few WMAs where it doesn't conflict with wildlife winter range.

As you can see by our actions, FWP is not opposed to the intent of HB454. However, this bill creates several problems and fails to address a host of issues that must be resolved in order for FWP to implement it.

Generally, FWP acquires land to conserve fish and wildlife habitat or provide public recreational opportunity. These are the "priority uses" of FWP land. HB454 seems to place multiple use on equal footing with habitat conservation as a priority use of FWP lands, and as a result, is in conflict with federal law and the requirements of many of the funding sources we've used to acquire land.

The majority of the land FWP owns has been purchased, at least in part, with federal funding from Pittman-Robertson, Dingell-Johnson, Habitat Conservation Plans under Section 6 of the Endangered Species Act, Bonneville Power Administration and Forest Legacy programs. Each of these funding programs places an encumbrance on property we acquire to ensure that FWP manages the property to the benefit of the conservation objectives of the funding program – generally fish and wildlife habitat conservation or recreation. HB454 seems to place the multiple use purposes in section 1(8) equal to or above the purposes for which the funding was provided to the department to acquire the land, and thus puts FWP in violation of federal law and subsequently at risk of having to repay funding that was granted to the department.

HB454 also raises a host of unintended consequences and unanswered questions that would need to be clarified in order for FWP to effectively implement the bill. For example:

- The bill is not clear as to which interests in land the multiple use requirements apply. The existing language in section 1 provides FWP the authority to acquire land and water

by purchase, lease or easement. I suspect the intent of the bill is to apply the multiple use requirements to land we own in fee, but the bill language seems to also apply the requirement to private lands we lease or hold a conservation easement on.

- How do we apply the requirement that at least 20% of the lands or waters are managed for multiple uses? Is this 20% of the acres we own? One out of every five properties we own? If acres, does it apply individually to each property or collectively across all of the acres in our ownership?
- How do we apply the requirement for livestock grazing, farming, haying, timber harvesting, etc. to water rights that we acquire, as the bill requires?
- Why does the bill specify "timber harvesting" as a multiple use rather than "timber management?" HB454 can be read to create the unintended consequence of a 5 year rotation for timber harvest. If "timber harvest" was the multiple use on a property, in order to comply with the bill would we have to harvest 20% of the timber on the property in year 1, another 20% in year 2, a third 20% in year 3, etc.?

We have informally discussed this bill with the U.S. Fish and Wildlife Service, and if this bill requires FWP to place multiple management objectives as a priority above fish and wildlife management, then it may make FWP placed in diversion.

Mr. Chairman and members of the committee, HB454 is well intentioned. FWP currently allows for one or more of the multiple uses specified in the bill on most land we own. We support multiple use of our lands when and where appropriate with the conservation and recreational objectives for which we purchased the property and the requirements of the funding source that funded the acquisition. However, HB 454 potentially places FWP in violation of federal law and at risk of having to return money to federal and state programs that have funded our acquisitions. It is poorly drafted, creates unintended consequences, is unnecessary, and is confusing. For these reasons, I respectfully request that you vote "Do Not Pass" on HB454.